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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,062	04/04/2001	Donald Kendall Drummond	96-006 D1	2444

7590 02/28/2003
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EXAMINER

CHIN, PETER

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 02/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,062

Applicant(s)

DRUMMOND, DONALD KENDALL

Examiner

Peter Chin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 17-24 is/are pending in the application.
- 4a) Of the above claim(s) 20,21 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,17-19,22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. Claims 1,19, 22, and 23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wu (5,647,902).

Wu discloses an aqueous acid stabilized CaCO_3 filler dispersion. The dispersion is stabilized by the addition of sodium carbonate and weak acids such as polyacrylic acid and phosphoric acid, column 3, last paragraph. The pH of the dispersion is below 7. The present claims by employing claim language "comprising" is open to the presence of sodium carbonate and thus the claimed invention is anticipated or at the least, obviously shown by Wu. In regard to claim 23, a claim directed to a method of chemically making the filler per se, this claim depends from a method of acid stabilizing a filler slurry. Therefore this claim is treated as a product by process of making the filler used in the claimed method of acid stabilizing the dispersion of the filler. The claimed CaCO_3 filler used is precipitated CaCO_3 filler and therefore does not patentably define over the precipitated CaCO_3 filler of Wu. In any case, the claimed method is conventional in the art for making precipitated CaCO_3 filler and thus, would have been obvious. If evidence is needed see Brahm et al (4,242,318)

2. Claim 17 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (5,647,902).

The claimed amount of weak acid would have been obvious optimization of the acid stabilization of the CaCO_3 filler dispersion or slurry.

3. Claims 20,21 and 24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and species, there being no

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allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.

4. Applicant's election with traverse of the Group I invention in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the invention not in itself used for coating plywood or brick walls. This is not found persuasive because as Applicant acknowledges calcium carbonate is useful as a component of coatings, albeit with other components. Therefore the filler can be used in other materially different processes. In any case Brahm et al (4,242,318) show that similar aqueous dispersions of CaCO_3 can be used in making paints, column 1.

The requirement is still deemed proper and is therefore made FINAL.

5. In order to correct the record, the Group II invention directed to a method of making paper and paper product is encompassed by claims 21 and 24 and not claims 22-24 as stated in the previous Office Action, Paper No.6.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Chin whose telephone number is (703) 308-2046. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

A handwritten signature in black ink, appearing to read 'Peter Chin', with a long horizontal stroke extending to the right.

PETER CHIN
PRIMARY EXAMINER